

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ABINGDON DIVISION

CLERK'S OFFICE U.S. DIST. COURT
AT ABINGDON, VA
FILED

MAR 30 2006

JOHN F. CORCORAN, CLERK
BY: *[Signature]*
DEPUTY CLERK

YUKON POCAHONTAS COAL CO.,)
ET AL.,)
Petitioners,)
v.)
ISLAND CREEK COAL CO. INC.,)
Respondent.)

Civil Action No. 1:05cv00098

ORDER

This case was referred pursuant to 28 U.S.C. § 636(b)(1)(B) to the Honorable Pamela Meade Sargent, United States Magistrate Judge. The Magistrate Judge has filed a report recommending that the court deny the motion to dismiss of Respondent. Objections to the report and recommendation have been filed, and the court, upon *de novo* review of the record, is of the opinion that the report should be adopted. It is, accordingly,

ADJUDGED and ORDERED

that the motion to dismiss of Island Creek Coal Co. INC., is hereby **DENIED**. It is further **ORDERED** that the Defendant shall file its answer with the court within 20 days of the date of entry of this order

The Clerk is directed to send certified copies of this Order to all counsel of record.

ENTER: March 29, 2006.

/s/ Glen M. Williams
SENIOR UNITED STATES DISTRICT JUDGE